

REMARKS

Introductory Comments

Reconsideration of the above-identified application in view of the above amendments and foregoing arguments is respectfully requested.

Claims 1-4 are pending and are under consideration. Claim 1 has been amended as explained below. No new matter has been added as a result of these amendments.

Applicants thank the Examiner for withdrawing the rejection of claims 1-4 under 35 U.S.C. § 101 for not being supported by either a specific, substantial, credible or asserted utility or a well established utility.

Claim Objections

Claim 1 is objected to for the informality that "of" is missing between the words "consisting" and "a". Applicants have amended claim 1 by inserting the word "of". Accordingly, Applicants respectfully request withdrawal of the objection to claim 1 for this informality.

Rejection of Claims 1-4 Under 35 U.S.C. § 112, First Paragraph

Claims 1-4 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Specifically, the Examiner maintains the rejection made in the previous Office Action by stating that the claims read on any arbitrary sized complement of SEQ ID NO: 4. However, the Examiner contends that the specification does not disclose these arbitrary sized complements of SEQ ID NO: 4 nor their uses.

While Applicants traverse the Examiner rejection, the claims have been amended in order to expedite prosecution of the present application. Specifically, claim 1 has been amended to recite "the complete complements thereof". Therefore, the claims no longer read on any arbitrary sized complement of SEQ ID NO: 4. The claims now require that the polynucleotide consists of a specific and definitive sequence and its complete complements.

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-4 under 35 U.S.C. § 112, first paragraph, with respect to enablement of these features.

Rejection of Claims 1-4 Under 35 U.S.C. § 102(e)

Claims 1-4 are rejected under 35 U.S.C. § 102(e), as being anticipated by Xu *et al.*, U.S. Patent No. 6,620,922 (herein "Xu '922").

Specifically, the Examiner asserts that based on the broad interpretation of the claims as noted above, the claims read on the SEQ ID NO: 435 of Xu '922.

Applicants respectfully traverse this rejection.

First, it is unclear as to how Xu '922's SEQ ID NO: 435 matches the instant SEQ ID NO: 4 or its complements. Although the sequence alignment shows a 97.4% identity between Xu's SEQ ID NO: 435 with the sequence being matched from the Examiner's sequence alignment attachment, that sequence does not pertain to the instant SEQ ID NO: 4 nor its complements. It appears that the Examiner is not comparing the correct sequences.

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-4 under 35 U.S.C. § 102(e), as being anticipated by Xu *et al.*, U.S. Patent No. 6,620,922.

Claims 1-4 are rejected under 35 U.S.C. § 102(e), as being anticipated by Xu *et al.*, U.S. Patent No. 6,395,278 (herein "Xu '278").

Specifically, the Examiner applies Xu '278 in a similar manner as Xu '922 because patents have the same disclosure. Therefore, the deficiencies of Xu

'278 is the same as the deficiencies of Xu '922 as stated above. Applicants' arguments are incorporated herein.

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-4 under 35 U.S.C. § 102(e), as being anticipated by Xu *et al.*, U.S. Patent No. 6,395,278.

Rejection of Claims 1-3 Under 35 U.S.C. § 102(b)

Claims 1-3 are rejected under 35 U.S.C. § 102(b), as being anticipated by Boehringer Mannheim Biochemicals 1991 Catalog, page 557 (herein "Boehringer").

Specifically, the Examiner asserts that based on the broad interpretation of the claims as noted above, the claims read on any of the hexanucleotides of Boehringer because Boehringer discloses all possible combinations of hexanucleotides.

Applicants respectfully traverse this rejection.

As stated above, Applicants have amended claim 1 to recite "the complete complements" of SEQ ID NO: 4. Therefore, the claims no longer read on Boehringer's hexanucleotides.

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-3 under 35 U.S.C. § 102(b), as being anticipated by Boehringer Mannheim Biochemicals 1991 Catalog, page 557.

CONCLUSION

Applicants respectfully submit that the claims comply with the requirements of 35 U.S.C. Sections 112 and 102. Accordingly, a Notice of Allowance is believed in order and is respectfully requested.


Should the Examiner have any questions concerning the above, she is respectfully requested to contact the undersigned at the telephone number listed below. If the Examiner notes any further matters which the Examiner believes may be expedited by a telephone interview, the Examiner is requested to contact the undersigned.

If any additional fees are incurred as a result of the filing of this paper, authorization is given to charge deposit account no. 23-0785.

Respectfully submitted,
Maurice Cohen, *et al.*

Wood, Phillips, Katz, Clark & Mortimer
500 West Madison Street
Suite 3800
Chicago, IL 60662-2511

Tel.: (312) 876-2109
Fax.: (312) 876-2020



Lisa V. Mueller
Registration No. 38,978
Attorney for Applicants